

NOT FOR CITATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**LOUIE GIANNINI,**

**Plaintiff,**

No. C 07-2572 PJH (PR)

vs.

## **ORDER FOR PLAINTIFF TO FILE STATEMENT**

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF  
CALIFORNIA,

**Respondent;**

ALICEMARIE H. STOTLER; VICTOR B.  
KENTON, et al., Magistrate Judge,

## Real Parties in Interest..

17        This case was opened when plaintiff sent a document to the court headed "Motion of  
18        Excusable Neglect[;] Notice and Motion in [sic] Request to File an Untimely Motion for a  
19        Change of Venue, Due to Physical and Mental[] Disabilities [;] Fed. R. Civ. Proc. Rule  
20        60(b)(1)(3)." In an effort to protect plaintiff's rights it was treated as an attempt to open a  
21        new case here. As the "motion" refers to a civil rights complaint, it was classified as a civil  
22        rights case. The clerk sent plaintiff a notice that he had not been granted leave to proceed  
23        in forma pauperis nor had he paid the \$350 filing fee. He was warned to do so within thirty  
24        days or the case would be dismissed. He has written a letter to the court in which he  
25        expresses some confusion about the case number and asks for an extension to time to pay  
26        so he can send the "information" (presumably the case number) to his daughter for her to  
27        pay the fee.

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1 The court is concerned that plaintiff may not have intended to start a new case in  
2 this district, and so will incur expense to no purpose. The "motion" with which this case  
3 was opened is headed "United States District Court[;] Central District of California[;]  
4 Western Division," carries a case number which is not from this court (CV05-3690-AHS),  
5 and in substance is a request that a case which apparently is or was pending in the Central  
6 District be transferred to this court. A motion for a change of venue is to be filed in the  
7 district where the case is pending, in this case the Central District, not in the district to  
8 which transfer is sought. Given this, it is unclear why plaintiff sent the motion here; perhaps  
9 it was an informational copy. Because it is unclear whether plaintiff intended to start a new  
10 suit here, he will be afforded an opportunity to clarify his intentions.

11 Within thirty days of the date this order is entered (the date the clerk has stamped on  
12 the first page), plaintiff shall file with the court a statement either voluntarily dismissing this  
13 case or clearly saying that he wants to continue with it. He should note that this court  
14 cannot grant a motion asking that venue be transferred *to* this court, and that it is likely that  
15 venue is not proper here as to the "respondent" or the real parties in interest named in the  
16 caption. If he does not file a statement the case will be dismissed without prejudice. If he  
17 says he wishes to proceed the court will enter an order regarding the fee status and the  
18 necessity of his filing a proper complaint; in the meantime, he need not act further on the  
19 clerk's notice regarding the fee.

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**IT IS SO ORDERED.**

23 | Dated: June 26, 2007

PHYLLIS J. HAMILTON  
United States District Judge

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